

Agenda Item	
	<p>Pledge of Allegiance</p>
	<p>Wishing to be heard during the Open Comment Period was Jennifer Lucas, 1307 Sunrise Avenue S.E. Ms. Lucas acquainted the Council with the problems and eyesore in her backyard; i.e., drainage ponds constructed by the developer, never cleaned up and not maintained. The developer, DeWitz Construction, has said that the ponds are now the responsibility of the City. The drainage ponds are dangerous and present health hazards to the residents living around the area. The matter was referred to the Public Works Department.</p>
A-1	<p>President Dennis Hanson called the meeting to order at 7:00 P.M. with the following members present: Councilmembers Amy Blenker, Pat Carr, Marcia Marcoux, Jean McConnell, Sandra Means, Bob Nowicki. Absent: None. Also present: Mayor Ardell F. Brede.</p>
D-1-37	<p>Councilmembers Marcoux moved, Nowicki seconded, to approve the following consent agenda items.</p>
D-1	<p>Approved the minutes of the May 2 and May 16, 2005, Council meetings.</p>
D-2	<p>The following additional annual appointments to the South Zumbro Watershed Joint Powers Board have been made by President Hanson: Marcia Marcoux, Sandra Means, Pat Carr.</p>
D-3	<p>Authorized the Rochester Downtown Alliance to be the first point of contact for any development proposals occurring in the area of the Downtown Special Services District.</p>
D-4	<p>Approved funding in the amount of \$23,500 from the Future Downtown Development Account J-1966 to complete the review of the Presentation Hall in the Mayo Civic Center for usage as a concert hall.</p>
D-5	<p>Adopted Resolution No. 216-05 entering into a Joint Resolution for Orderly Annexation with Haverhill Township for properties in the Hadley Valley vicinity.</p>
D-6	<p>Approved On-Sale and Sunday Liquor Licenses for Carpenter and Torgerson II LLC DBA Courtyard by Marriott at 161 13th Avenue S.W.</p>
D-7	<p>Approved the following licenses and miscellaneous activities:</p> <p><u>Circus – Carnival</u> Astro Amusement Co., Inc., Barrington, Illinois – Olmsted County Fair – August 2 – 7, 2005.</p> <p><u>Dance</u> Ricmar Entertainment – Graham Arena – May 29, 2005 (Prior Approvals: Nowicki, Means, Marcoux, Hanson, McConnell)</p>

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Firework Sales

Gregory Swiler for B.J. Alan Fireworks Company, Youngstown, Ohio – Tent at Crossroads Shopping Center, 1201 South Broadway

Adam Jaros for B.J. Alan Fireworks, Duluth, Mn – Tent at Petco, 4200-4242 Highway 52 North

Food Vending Cart – Peace Plaza

Robert Erstad, Elgin

Gambling – Temporary

Pulmonary Hypertension Association – Raffle at Marriott Hotel – November 5, 2005

Master Installer

Phil Grunewald, 313 32nd Street N.E.

Sidewalks – Cement

Roger D. Peterson Construction – Dover

Rosenau Masonry – West Concord

Luv-2-Dig, Inc. – Eyota

Sound Amplification

Diversity Council - Announcement of Campaign Results – Peace Plaza – May 26, 2005 – 11:30 AM to 12:30 PM (Prior Approvals: Nowicki, Means, Marcoux, Hanson, McConnell)

Mean Chv – 1101 Ninth Avenue N.W. – Backyard Engagement Party – July 8, 2005 – 9 AM to 11 PM

Brothers Bar & Grill, 812 South Broadway – Promotional Fun Night from 8 to 11 PM on June 11, 2005 and Talent Contest/Fox Country from 7 to 10 PM on July 28, 2005 both in parking lot behind Brothers.

American Cancer Society – Relay and Bands Fundraiser – 5 PM on July 8 to 12 Noon on July 9, 2005 – RCTC

Gregory Gilman, 3325 Lake Street N.W. – Neighborhood Gathering – June 12, 2005 – 12 Noon to 7:30 PM

Unite Here Local 21 – Rally at the Peace Plaza - July 13, 2005 – 3 to 5 PM

Miscellaneous

American Bikers for Awareness Training and Education (ABATE) – Motorcycle Run for Toys for Tots – Wal-Mart South – July 9, 2005 – 1 to 2 PM.

American Cancer Society – Relay and Bands Fundraiser – 5 PM on July 8 to 12 Noon on July 9, 2005 – RCTC

Catholic Charities – Walk – June 18, 2005 – 1 to 2 PM

Vicki Shea – Rochester Jaycees Kiddies Parade – July 4, 2005 – 10AM to 12 Noon

Sue Neumann/John Horntvedt, 4469 Savannah Drive N.W. – Block Party – June 25, 2005

The Reading Center – Ice Cream Social/Mural Unveiling at 847 Fifth Street N.W. – June 26, 2005 – 12 Noon to 6 PM.

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	<p>David Slettten – 15K Running Event for Mn. Motivating, Inspiring Leadership and Excellence (Minnesota MILE) – September 10, 2005</p> <p>Terry Thronson – Support Our Troops Rally Parade – June 25, 2005 – 10 to 10:30 AM</p>
D-8	Approved Accounts Payable in the amount of \$13,515,258.90 and Investment Purchases of \$2,364,624.00.
D-9	Adopted Resolution No. 217-05 approving participation in the U.S. Communities Program and authorized the Mayor and City Clerk to sign the Joint Powers Agreements with other participating governmental entities.
D-10	Adopted Resolution No. 218-05 requesting the City Clerk to advertise for bids for a Tanker Fire Truck.
D-11	Adopted Resolution No. 219-05 amending the contract with Mobility Concepts by Scotty in an amount not to exceed \$7,045.00 to add electric leveling jacks and a Weather Smart virtual storm awareness teaching package to the new Fire Safety Trailer previously purchased.
D-12	Adopted Resolution No. 220-05 accepting the Adequate Fire and Emergency Response Grant application and approve the hiring of three firefighters to staff the program.
D-13	Recognized the appointment of Anthony J. Fix and Jerald E. Stark to the position of Police Officers in the Rochester Police Department effective June 16, 2005.
D-14	Adopted Resolution No. 221-05 approving the Environmental Impact Statement for the Hart Farm South Development.
D-15	Adopted Resolution No. 222-05 approving the Wetland Delineation and Replacement Plan for Radichel First Replat with one condition.
D-16	Adopted Resolution No. 223-05 approving a Pedestrian Facilities Agreement with Michael O'Hanlon & Charlotte O'Hanlon for M&B#05-10 on Lot 75 and part of Lot 74, Auditor's Plat 'B' in Olmsted County.
D-17	Adopted Resolution No. 224-05 approving a Pedestrian Facilities Agreement with Jim & Janice Claire, for M&B#04-16 on part of Lot 2, Block 1, Murphy's Replat, Olmsted County.
D-18	Adopted Resolution No. 225-05 approving a Pedestrian Facilities Agreement with K & M Glass, Inc. for SDP#05-14 on part of Lot 3, Block 6, Golden Hill Addition, Olmsted County.
D-19	Adopted Resolution No. 226-05 approving a Pedestrian Facilities Agreement with Tyler Jay Company, Inc. for M&B#05-04 on part of Lot 1, Block 3, Hendricks' Subdivision, Olmsted County.

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D-20	Adopted Resolution No. 227-05 approving a Pedestrian Facilities Agreement with 4TD, LLC for SDP#05-06 Pace Electronics, on Lots 1 & 2, Block 1, Rochester Technology Park Third, Olmsted County.
D-21	Adopted Resolution No. 228-05 approving a Development Agreement with the Minnesota School of Business/Globe College, Inc. for part of Lot 1, Block 1 and Lots 1, 2, & 3, Block 2, together with the abutting Pennington Drive N.W. vacated ROW in Pennington Business Park Sixth Subdivision.
D-22	Adopted Resolution No. 229-05 approving a City/Owner Contract with 4TD, LLC and Bob Braaten Construction, Inc. for Project No. J-5181 "Public Improvements to Serve Pace Electronics (Lots 1 & 2, Block 1, Rochester Technology Park 3 rd)".
D-23	Adopted Resolution No. 230-05 approving a City/Owner Contract with RJY Development, LLC and Elcor Construction, Inc. for Project No. J-5179 "Public Improvements to Serve River Court Estates".
D-24	Adopted Resolution No. 231-05 approving a City/Owner Contract with K & P Properties, LLC, and Billman Orr Enterprises, LLC, and Elcor Construction, Inc. for Project No. J-5188 "Public Improvements to Serve North Orchard Park".
D-25	Adopted Resolution No. 232-05 approving a Settlement Agreement with Louise Shefelbine, Trustee for Right-of-Way Acquisition for Project No. J-4005 "Construction of Regional Storm Water Pond at 41 st Street NW and West Circle Drive".
D-26	Adopted Resolution No. 233-05 approving land acquisition under the use of the 90-day "Quick Take" and at a value not to exceed 15 percent of the appraised value for Project No. J-7712 "Hadley Valley Sanitary Sewer and Watermain".
D-27	Adopted Resolution No. 234-05 approving a settlement for permanent utility easement and electrical easement revision in the amount of \$8,350.00 to Paul and Lois Hruska for Project No. J-7703 "Silver Creek Sewer Project".
D-28	Adopted Resolution No. 235-05 approving the execution of an Engineering Service Agreement with WHKS & Company to provide engineering services at a cost of approximately \$44,208 for Manhole Inspection and Television Inspection Plan & Spec Preparation for East Side Trunk Sanitary Sewer.
D-29	Adopted Resolution No. 236-05 awarding the contract to Elcor Construction in the amount of \$676,484.50 for Project No. 6200-E-00 (J-9618) "Reconstruct Center Street from 1 st Avenue to 3 rd Avenue".
D-30	Adopted Resolution No. 237-05 and 238-05 authorizing the City Clerk to advertise for bids for Project No. 6308-5-2-2 (J-7205) "Curb, Gutter & Overlay on 8 1/2 Avenue S.E. from 13 1/2 Street to 16 th Street S.E." and Project No. 6215-3-02 (J-7218) "Curb, Gutter & Overlay on 15 th Street S.E. from 6 th Avenue to 10 th Avenue S.E."

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D-31	Adopted Resolution No. 239-05 authorizing the City Clerk to advertise for bids for Project No. J-7712 "Construct Gravity Interceptor Sanitary Sewer Phase 1" and authorize the issuance of an Invitation for Qualifications (IFQ) to solicit Qualification Submittal Documents from Tunneling contactors.
D-32	<p>Adopted Resolution No. 240-05 amending paragraphs of the Comprehensive Traffic and Parking Resolution Book, to read:</p> <p>Paragraph 4.5 of Section G "One-Way Streets and Alleys"</p> <p>(4.5) 3rd Street SW, from Broadway to 2nd Avenue SW, one-way for westbound traffic.</p> <p>Paragraph 8 of Section C "Special Parking Zones"</p> <p>(8) 3rd Street SW, on the north side, from a point 85 feet more or less, to a point 105 feet more or less, west of 2nd Avenue SW, one stall for the Olmsted County Coroner.</p> <p>Paragraph 52 of Section E "Passenger Loading Zones"</p> <p>(52) 3rd Street SW, on the north side, from 2nd Avenue SW, to a point 85 feet more or less, west of 2nd Avenue SW, no parking passenger loading zone.</p>
D-33	Adopted Resolution No. 241-05 approving Agency Agreement No. 88043 with the Minnesota Department of Transportation for Federal Participation in Project No. 159-104-13 (J-9712) "Reconstruction of 7 th Street N.W."
D-34	Adopted Resolution No. 242-05 approving the execution of a revocable permit to allow the construction of a concrete driveway partially located in the 10-foot utility easement to provide access to the addition to be constructed to the home located at 3211 Darcy Drive N.E.
D-35	Adopted Resolution No. 243-05 approving "Rules Covering Cogeneration and Small Power Production Facilities" and approving a rate tariff "Schedule I" in accordance with provisions of Minnesota Statutes Section 216B.164, Subdivision 9.
D-36	Adopted Resolution No. 244-05 approving the City Clerk to advertise for sale the Water Reclamation Plant's three centrifuges and associates equipment for sale and receive bids for the equipment.
D-37	<p>Approved the request of the Park and Recreation Department to fund the Summer YEP Work Program in the about of \$9,383.00.</p> <p>Ayes (7), Nays (0). Motion carried.</p>
E-1	<p>A Continued Hearing on Vacation Petition #05-02 by Crossroads College to vacate utility easements in Lot 1, Block 1, Minnesota Bible College Addition.</p> <p>Staff recommended that this item be continued to the June 20, 2005, meeting to allow completion of the required Development Agreement.</p> <p>No one wished to be heard at this time.</p>

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E-2	<p>Councilmembers Marcoux moved, McConnell seconded, to continue the Hearing on Vacation Petition #05-02 by Crossroads College to vacate utility easements in Lot 1, Block 1, Minnesota Bible College Addition to June 20, 2005. Ayes (7), Nays (0). Motion carried.</p> <p>A Continued Hearing on Preliminary Plat #05-12 by Mills Properties, Inc. and Rochester Petroleum Equipment, Inc. located south of 48th Street S.E. between TH 63 and St. Bridge Road.</p> <p>The applicant has requested that this item be continued to the June 20, 2005, meeting.</p> <p>No one wished to be heard at this time.</p> <p>Councilmembers Marcoux moved, Nowicki seconded, to continue the Hearing on Preliminary Plat #05-12 by Mills Properties, Inc. and Rochester Petroleum Equipment, Inc. to June 20, 2005. Ayes (7), Nays (0). Motion carried.</p>
E-3	<p>A Hearing to Consider the Imposition of Service Charges for the Downtown Special Service District.</p> <p>Wishing to be heard was Gene Olswold, Commander of American Legion Post #92. Mr. Olswold asked what some of the physical improvements that have been talked about are going to be and how can they benefit from the benefits of this proposal.</p> <p>Wishing to be heard was Gary Smith, Rochester Area Economic & Development Incorporated (RAEDI) and a member of the Rochester Downtown Alliance. Mr. Smith said that part of the benefits will be promotions for the downtown area, hope to see new development, particularly residential development. There are a number of developers that have expressed interest in the downtown area with the primary emphasis on First Avenue hoping to create an Urban Village, an area of mixed use development. Property values should increase, thereby increasing investments in the area, more businesses, more restaurants, more entertainment and, for those established businesses, to grow their business.</p> <p>Wishing to be heard was Gene Olswold, Commander of American Legion Post #92. He said that the American Legion property is bordered by the DM&E on one side, the Mayo Civic Center on another, and Johnson Printing behind them. As far as physical improvements, what can be done? Mr. Olswold said that the organization is non-profit and they are asking to be exempted from the area.</p> <p>Wishing to be heard was Gary Smith, Rochester Area Economic & Development Incorporated (RAEDI) and a member of the Rochester Downtown Alliance. Mr. Smith noted that the Broadstreet Café is adjacent to the American Legion Post #92 and they think there is some benefit to the special services district. What will the cost be in extra taxes?</p> <p>Doug Knott, Downtown Development Director, said that the extra taxes charged to the American Leigon Post will be approximately \$1,000.</p>

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	<p>Having no one further wishing to be heard, President Hanson closed the hearing.</p> <p>Wishing to be heard was Jay Anderson, 5823 Eidelweis Lane N.W., Finance Officer of American Legion Post #92. He said that they pay approximately \$18,000 in property taxes per year. If the property values rise, the taxes will rise as well.</p> <p>Councilmembers Nowicki moved, Marcoux seconded, to adopt Resolution No. 245-05 imposing a \$150,000 in special service district charges on properties classified as commercial and industrial for property tax purposes located within the Downtown Special Service District, and provide written notice to landowners subject to the special district service charge as provided for under State Statute 428A.09, and certify the service charges to the County Assessor prior to November 30, 2005. Ayes (7), Nays (0). Motion carried.</p>
E-4	<p>A Hearing on Incentive Development Final Plan #03-60 by Volunteers of America located along the north side of 55th Street N.W. and along the west side of 18th Avenue N.W.</p> <p>Having no one wishing to be heard, President Hanson closed the hearing.</p> <p>Councilmembers McConnell moved, Means seconded, to adopt Resolution No. 246-05 approving Incentive Development Final Plan #03-60 by Volunteers of America with eight conditions. Ayes (7), Nays (0). Motion carried.</p>
E-5	<p>A Hearing on Final Plat #05-19 to be known as The Homestead First Replat by Senior Housing Partners located along the west side of 18th Avenue N.W. and along the north side of 55th street N.W.</p> <p>Having no one wishing to be heard, President Hanson closed the hearing.</p> <p>Councilmembers Nowicki moved, Marcoux seconded, to adopt Resolution No. 247-05 approving Final Plat #05-19 to be known as The Homestead First Replat by Senior Housing Partners with six conditions. Ayes (7), Nays (0). Motion carried.</p>
E-6	<p>A Hearing on Land Use Plan Amendment #03-07 by Mark Leitzen to designate property as commercial and industrial located south of the Southport Development, west of C.R. 1 and north of TH 52 South, and A Hearing on Zoning District Amendment #03-24 by Mark Leitzen to designate property as B-4 and M-1, and General Development Plan #221 by Mark Leitzen.</p> <p>Testimony presented was pertinent to Items E-7 and E-8 as well.</p> <p>Wishing to be heard was Josh Johnson, McGhie & Betts, representing the developer. He referred to a memorandum to Councilmembers from Bill Tointon, McGhie & Betts, dated June 6, 2005. In the letter, Mr. Tointon outlined initial meetings with City and County staff to address concerns on a Traffic Impact Report, commercial and industrial development on the land (not including a mining and/or quarrying operation), and a traffic signal that the developer has committed to paying for. Mr. Johnson asked that Option #3 on City Council Options of May 23,</p>

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2005, for all land use and zoning on the Leitzen Property, with the understanding that the property will be phased in accordance with trip generation for stop sign condition and the fact that the intersection will be signalized in the future with the signal being the responsibility of Mr. Leitzen.

Terry Adkins, City Attorney, asked if there was a development agreement for the phasing in of the development as required by City ordinances. Mr. Johnson replied there would be one as initiated by Public Works. He noted that they were in agreement with the phasing in as indicated by trip generation.

Having no one further wishing to be heard, President Hanson closed the hearings for Items E-6, E-7 and E-8.

Councilmembers Marcoux moved, McConnell seconded, to adopt Resolution No. 248-05 approving Land Use Plan Amendment #03-07 by Mark Leitzen and instructed the City Attorney to prepare Findings of Fact, Conclusions of Law, and Order. Discussion.

Councilmember Blenker asked about the uses of the industrial and commercial properties. Staff had recommended approval of the commercial use and denial of the industrial use for the land. She asked for further background information and what defined the denial or approval of the property.

John Harford, Planning Department, said that one of the problems was amount of traffic that would utilize the common access with the Quinstar development to the east and this property on the west side of CR 1. There was an understanding that Quinstar would ask for an amendment to their general development plan. The County Public Works Department in their reconstruction of CR 1 created the common intersection. The general development plan for Quinstar has not been amended to date. Mr. Harford said that there were also questions on the impact of land uses in the surrounding area and the traffic question with the intersection. There are no plans to extend the street westerly through the Leitzen property to TH63.

Ayes (7), Nays (0). Motion carried.

E-7

A Hearing on Zoning District Amendment #03-24 by Mark Leitzen to designate property as B-4 and M-1 located south of the Southport Development, west of C.R. 1 and north of TH 52 South.

Testimony taken during Item E-6 pertains to this item.

Councilmembers McConnell moved, Marcoux seconded, to approve Zoning District Amendment #03-24 by Mark Leitzen and instructed the City Attorney to prepare the required ordinance for adoption. Ayes (7), Nays (0). Motion carried.

E-8

A Hearing on General Development Plan #221 by Mark Leitzen on property located south of the Southport Development, west of C.R. 1 and north of TH 52 South.

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	<p>Testimony taken during Item E-6 pertains to this item.</p> <p>Terry Adkins, City Attorney, recommended that the recommended conditions be amended as follows :</p> <ol style="list-style-type: none">1. (add to the end of Condition #1)...and the manner in which the development is to be phased in.9. (first sentence should end with the word agreement, not proposal)...in the development agreement. <p>John Harford, Planning Department, indicated that Condition #10 can be dropped.</p> <p>Councilmembers Nowicki moved, Carr seconded, to approve General Development Plan #221 by Mark Leitzen with nine conditions as amended. Ayes (7), Nays (0). Motion carried.</p>
E-9	<p>A Hearing on Final Plat #05-17 to be known as Richmond Commercial Center by AA Buffalo LLC located along the east side of TH 63, along the north side of 18th Street SE and along the west side of 1st Avenue S.E.</p> <p>Having no one wishing to be heard, President Hanson closed the hearing.</p> <p>Councilmembers Marcoux moved, Carr seconded, to adopt Resolution No. 249-05 approving Final Plat #05-17 to be known as Richmond Commercial Center by AA Buffalo LLC with eight conditions. Ayes (7), Nays (0). Motion carried.</p>
E-10	<p>A Hearing on Final Plat #05-18 to be known as Fox Trails Second by West 19th Development, LLC located along Heartland Drive N.W., north of 19th Street N.W. and east of 50th Avenue N.W.</p> <p>Having no one wishing to be heard, President Hanson closed the hearing</p> <p>Councilmembers Means moved, McConnell seconded, to adopt Resolution No. 250-05 approving Final Plat #05-18 to be known as Fox Trails Second by West 19th Development, LLC with four conditions. Ayes (7), Nays (0). Motion carried.</p>
E-11	<p>A Hearing on Annexation Petition #05-05 by PAKS Properties IV LLC to annex land located south of 48th Street N.E., west of 22nd Avenue N.E. (Weih Subdivision) and north of the Cassidy Hills Development.</p> <p>Wishing to be heard was Mark Engel, Yaggy-Colby Associates, representing the developer. He noted that he was available for any questions the Council may have.</p> <p>Having no one further wishing to be heard, President Hanson closed the hearing.</p> <p>Councilmembers Nowicki moved, Marcoux seconded, to approve Annexation Petition #05-05 by PAKS Properties IV LLC and instructed the City Attorney to prepare the required ordinance for adoption. Ayes (7), Nays (0). Motion carried.</p>

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E-12	<p>A Hearing on Annexation Petition #05-06 by William P. Kolb located east of 18th Avenue S.E. and south of Greystone Lane S.W.</p> <p>Having no one wishing to be heard, President Hanson closed the hearing.</p> <p>Councilmembers Marcoux moved, Nowicki seconded, to approve Annexation Petition #05-06 by William P. Kolb and instructed the City Attorney to prepare the required ordinance for adoption. Ayes (7), Nays (0). Motion carried.</p>
G-2a	<p>An Ordinance Rezoning Approximately 10.87 Acres of Property From the R-1 Zoning District to the B-4 Zoning District, and Rezoning Approximately 44.10 Acres of Land From the R-1 Zoning District to the M-1 Zoning District, and Amending Ordinance No. 2785, Known as the Zoning Ordinance and Land Development Manual of the City of Rochester, Minnesota, was given a first reading. (Zoning District Amendment #03-24 – South of the Southport Development, West of CR1 and North of TH52 South)</p>
G-2b	<p>An Ordinance Annexing to the City of Rochester Approximately 4.91 Acres of Land Located in a Part of the Southeast Quarter of the Southeast Quarter of Section 13 and Approximately 52.60 Acres of Land Located in a Part of the Southwest Quarter of Section 18, Township 106 North, Range 14 West, Olmsted County, Minnesota, was given a first reading. (Annexation Petition #05-05 – South of 48th Street NE, West of 22nd Avenue NE, North of Casidy Hills Development)</p>
G-2c	<p>An Ordinance Annexing to the City of Rochester Approximately 40 Acres of Land Located in a Part of the Northeast Quarter of Section 22, Township 106 North, Range 14 West, Olmsted County, Minnesota, was given a first reading. (Annexation Petition #05-06 – East of 18th Avenue SW, South of Greystone Lane SW)</p>
G-3a	<p>An Ordinance Annexing to the City of Rochester a Portion of the Southeast Quarter of the Southwest Quarter of Section 34, Township 106 North, Range 14 West, Olmsted County, Minnesota, was given a second reading. Councilmembers McConnell moved, Marcoux seconded, to adopt the Ordinance as read. Ayes (7), Nays (0). Motion carried. (Annexation #05-03 – adjacent to the WR-6A Flood Control Reservoir, north of 60th Avenue N.W., west of CR 147)</p>
G-3b	<p>An Ordinance Annexing to the City of Rochester a Portion of the Northwest Quarter of the Northeast Quarter of Section 9, Township 107 North, Range 14 West, Olmsted County, Minnesota.</p> <p>Councilmembers Marcoux moved, McConnell seconded, to suspend the rules and give the Ordinance a second reading. Ayes (7), Nays (0). Motion carried. The Ordinance was given a second reading. Councilmembers Nowicki moved, Marcoux seconded, to adopt the Ordinance as read. Ayes (7), Nays (0). Motion carried. (Overland Drive N.W.)</p>
G-3c	<p>An Ordinance Amending and Reenacting Section 7.021 and Subdivision 1 of Section 7.03 of the Home Rule Charter of the City of Rochester, Relating to the</p>

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H-1

Removal of Board Members and Employees, Respectively, was given a second reading. Councilmembers Marcoux moved, Nowicki seconded, to adopt the Ordinance as read. Ayes (7), Nays (0). Motion carried.

Councilmembers Marcoux moved, Nowicki seconded, to remove from the table and take public comment on the Amendment to RCO Chapter 85.13 Relating to Discharge and Transportation of Weapons in the City. Ayes (7), Nays (0). Motion carried.

Wishing to be heard was Karen Yaszemski, 2806 16th Avenue S.W. Ms. Yaszemski wished to reiterate some facts about the ordinance as written. She said that the ordinance should be changed to bring it into the 21st Century. She is concerned about the safety issues with hunting allowed in the City limits and would suggest a controlled hunt. A controlled hunt is the licensing of hunting deer with more stringent controls and regulations in combination with the Department of Natural Resources (DNR) and an experienced person administering proficiency testing for bow hunters. A hunt with maximum security, humaneness and efficiency would also allow the DNR to keep a specific number on the deer removed from the land. Notification of residents by the media or watch groups of hunting in their areas by date and time would also be helpful.

Wishing to be heard was Jo Russell, 5900 11th Avenue S.W. Ms. Russell said that she has lived 39 years in the same place and has experienced a lot of hunters. Ms. Russell said that her biggest concern is the removal of the monitoring by the Police Department. She has talked with other cities about their ordinances. Some allow only hunting of antlered animals, they post big signs where hunting can occur, have a 250 foot restriction from dwellings, must shoot from a deer stand at a minimum height of five feet, must have a consent form, must have passed a proficiency test.

Wishing to be heard was Lyle Solem, 1221 20th Street N.W., Mr. Solem said that it is his understanding that many of the controls that Ms. Russell was pointing out are in the proposed ordinance. Today, people can hunt with no controls. He said that currently a hunter can stand by his fence and hunt whereby the ordinance does not allow such activities to occur. He said that he agrees with the 500-foot distance to dwellings.

Councilmember McConnell said that he was sure that all hunters would be taking a tape measure with them to make sure of the 500-foot distance. In reality, they are going to find a little clearing and that is where they are going to hunt. Mr. Solem responded that whatever the hunter does, he has to go farther than what is currently allowed.

Wishing to be heard Marty Stubstad, 2316 Wilshire Lane N.E. He said that the bow hunter education program and the proficiency testing is a huge thing for Rochester. It will be safer with all the conditions attached to the ordinance. He asked that the Council adopt the ordinance as written saying that it contained good, common sense.

Wishing to be heard was Don Nelson, Area Wildlife Supervisor, Department of

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Natural Resources. Mr. Nelson said that they will work with the City on whatever the requirements of the ordinance are. He noted that there are deadlines coming up for publication of their rules for hunting for the fall hunting season. He asked that the ordinance changes be made available to them within the next two weeks so that they could be incorporated into the booklet. Mr. Nelson said that hunters are still subject to any state rules as well as City policies including obtaining a state license. Mr. Nelson said that the DNR is in support of the City ordinance.

Having no one further wishing to be heard, President Hanson closed the hearing.

Councilmember Nowicki said that the Police Department will still be fully involved in monitoring the hunting process; however, they will not be looking at a map to approve the location. If citizens feel that the distance requirements are not being met or someone is not following policies, they should call the Police Department.

Councilmember Blenker asked about the 500-foot setback. She said that at first the ordinance seemed so restrictive that no one could hunt. She asked what areas or how many acres are required to meet the setback requirements. Terry Spaeth, Administrative Assistant, said that approximately 23 acres are needed to provide the required buffer. He said that there are approximately 117 parcels in the City that meet the criteria; however, if looking at the map, there are only about one-half of those having the proper type of cover that would hold wildlife. Mr. Spaeth said that the 250-foot buffer, that also had been considered, would provide over 400 parcels of land, of 4 acres each that would meet the requirements of the ordinance.

Councilmember Means said that she would still like the Police Department to approve the permits for a limited time. She also asked that the ordinance be printed in other languages to reach all populations. There is a need to understand the guidelines as well as the penalties.

Councilmember Carr pointed out that at the May 2, 2005, Council hearing, Mr. Nelson from the DNR stated "there currently isn't a problem with deer in the City of Rochester now" and that he only gets one complaint per month in regard to deer damage of properties. Councilmember Carr said that given the testimony from Mr. Nelson, he doesn't see a problem with the current ordinance in place. He said that he does see misunderstanding on this ordinance. The proposed ordinance could be sold as tightening restrictions; however, he said he sees it as loosening and broadening the restrictions. Councilmember Carr said that the City is creating an ordinance that is impossible to enforce. The Chief of Police is monitoring the situation now. If we are going to make law, we need to make really good law. Councilmember Carr said that he has talked with people about the ordinance and feels that there are 95,000 people in the City and 95% of those people that he talked with are against the ordinance.

Councilmember Carr moved, McConnell seconded, to deny the amendment and leave R.C.O. Chapter 85.13 the way it stands today.

Councilmember McConnell said that this is not an ordinance to increase safety; it is an ordinance to kill more deer. He said that he is opposed to the use of death-

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dealing projectiles within the City limits of Rochester. Even though there may be considerable care and planning by others, the unacceptable risks remain. Instruments that pose a danger to persons, especially kids, have no place in town.

Councilmember Nowicki said that he disagrees with Councilmember Carr in that no one understands the ordinance. The Chief of Police is the one that asked Council to approve the ordinance. It is because the Chief is concerned about the current ordinance which does not change anything in regard to the monitoring by the Police Department. The ordinance is not about thinning the herd or hunting or being hit by cars but rather that the Police Department can monitor the situations without making arbitrary decisions.

Upon Roll Call Vote Ayes (2), Nays (5). Motion denied. Councilmembers Carr and McConnell voted aye. Councilmembers Blenker, Marcoux, Means, Nowicki and President Hanson voted nay.

President Hanson asked that a motion to approve contain a maximum fine of \$1000 and a minimum fine for a 1st Time Offender. The City Attorney had earlier said that such could be added to the ordinance.

Councilmembers Nowicki moved, Blenker seconded, to amend Ordinance Section 85.13 Relating to the Use of Firearms, Bows and Dangerous weapons in Game Hunting Within the City with seven conditions, a minimum fine of \$450.00 for 1st Time Offenders and instructed the City Attorney to prepare the required ordinance for adoption. Discussion.

Councilmember Means said that calls from constituents want the police department presence to continue, and should be provided for in the ordinance, and a condition that ordinance be printed in difference languages to provide notification to all individuals. Don Nelson, Area Wildlife Supervisor, DNR, said that the DNR brochure is currently printed in four languages. Terry Adkins, City Attorney, noted that the language for notification to the Police Chief is still remaining in the ordinance.

Wishing to be heard Marty Stubstad, 2316 Wilshire Lane N.E., saying that the bow hunters education program is a mandatory eight-hour course. In answer to a question from Councilmember Blenker, Mr. Stubstad said that the proficiency test must be completed annually. A certificate of completion must be carried at all times by the bow hunter.

Councilmember Marcoux stated that one of the reasons for the ordinance was to remove the necessity of the Police Chief approving each hunter and area. Terry Adkins, City Attorney, stated that the motion could be amended to say "except as provided in Subdivision 3(h) a person lawfully hunting must have permission of the Police Chief".

Terry Spaeth, Administrative Assistant, said that Condition #6 should have added "a bow hunter must complete a bow hunter education program and an archery

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CITY OF ROCHESTER, MINNESOTA

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proficiency test and show proof as required and Condition #8 would be the minimum fine of \$450.00.

Councilmembers Nowicki moved, Blenker seconded, to amend the motion to: "except as provided in Subdivision 3(h) a person lawfully hunting must have permission of the Police Chief" and add Condition #8 placing a minimum fine of \$450.00 on 1st offenders.

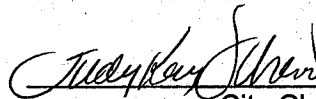
Ayes (5), Nays (2). Motion carried. Councilmembers Carr and McConnell voted nay.

An Ordinance Amending and Reenacting Section 85.13 of the Rochester Code of Ordinances, Relating to the Use of Firearms, Bows and Dangerous weapons in Game Hunting Within the City, was given a first reading.

Councilmembers Nowicki moved, Means seconded, to suspend the rules and give the Ordinance a second reading. Ayes (5), Nays (2). Motion failed as a suspension of rules must be by unanimous vote. Councilmembers Carr and McConnell voted nay.

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Having no further business, Councilmembers Nowicki moved, Marcoux seconded, to adjourn the meeting. Ayes (7), Nays (0). Motion carried.



City Clerk